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Attorneys for Plaintiff
RAYMOND P. MARIOLLE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAYMOND P. MARIOLLE,

Plaintiff,

vs.

VOLVO GROUP NORTH AMERICA,
INC.; CONSOLIDATED METCO, INC.;
AMSTED INDUSTRIES, INC.; and
DOES 1 through 25, inclusive,

Defendants.

No. C-09-1209 MMC

ASSIGNED FOR ALL PURPOSES TO
THE HONORABLE MAXINE M. CHESNEY

**MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT; AND ORDER**

NOW INTO COURT, through undersigned counsel, comes Raymond Mariolle, plaintiff herein, who moves this Honorable Court for an order permitting plaintiff to file an Amended Complaint to name Labrie Environmental Group (Labrie) and Wittke Waste Equipment (Wittke) as additional defendants in this action.

This personal injury action has been instituted to recover damages sustained by Raymond P. Mariolle as a consequence of two single-vehicle collisions which were caused by the failure of the vehicle's wheel hubs. The wheel hubs are the point on the vehicle where the tire and rim are attached to the vehicle. The Volvo vehicle operated by Mr. Mariolle at the time of the collision sustained hub failures on September 17, 2007 and October 29, 2007, causing a tire and rim of the vehicle to detach and the vehicle to lose control.

1 Upon information and belief, the vehicle was designed, manufactured, distributed and sold by
 2 Volvo Trucks North America, Inc. (VTNA) with component parts which were manufactured by
 3 Consolidated Metco, Inc. and/or Amsted Industries, Inc. VTNA and Consolidated Metco, Inc. have
 4 alleged that Labrie and Wittke were responsible for the alleged defects in the vehicle.

5 Plaintiff seeks to amend the complaint pursuant to Rule 15(a)(2) of the Federal Rules of Civil
 6 Procedure. The proposed Amended Complaint is attached as Exhibit "1" and is incorporated herein as
 7 if copied *in extenso*.

8 Counsel for plaintiff has contacted Matt F. Cohen, counsel for VTNA and Anthony E. Sonnett,
 9 counsel for Amsted Industries, Inc. and Consolidated Metco, Inc. regarding this motion. Counsel for
 10 VTNA has advised that his client will not oppose the motion. Counsel for Amstead Industries, Inc. and
 11 Consolidated Metco, Inc. has advised that his clients will not oppose the motion.

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 13 Dated: May 20, 2010

BOXER & GERSON, LLP

14 By: 

15 GARY B. ROTH
 16 Attorneys for Plaintiff
 RAYMOND P. MARIOLLE

17 **ORDER**

18 IT IS ORDERED that Raymond Mariolle may file the Amended Complaint, on the condition
 19 that plaintiff file the Amended Complaint no later than May 21, 2010, and serve it on the newly-
 named defendants no later than June 18, 2010.

20 Dated: May 20, 2010

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 22 THE HONORABLE MAXINE M. CHESNEY
 23 Judge of the United States District Court
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